

Approved:

Policy No.: 15-009(P)

Effective: 4/17/2015

Responsible Division: Chief Legal Counsel

Supersedes Policy: 150-09(P) Dated 6/1/09

  
\_\_\_\_\_  
Jerry Wray  
Director

**PURCHASING ETHICS and  
VENDOR VISIT POLICY**

**POLICY STATEMENT:**

ODOT shall purchase supplies and services in a fair and ethical manner. Each purchase by ODOT involves the expenditure of tax dollars that creates a trust between ODOT and the general public. It is ODOT's policy that ODOT employees who purchase supplies and services for the department will protect this trust and treat all vendors who are interested in doing business with the department fairly and equally. The purpose of this policy is to establish a statewide, uniform policy on purchasing ethics and specifically on visitation procedures for vendors for the purpose of sales, marketing "cold calls," and visits.

**AUTHORITY:**

Ohio Revised Code Chapters 125, 5513 and 5525  
Ohio Ethics Laws  
Purchasing and Contracts Administration Manual  
Executive Order 2007-01S

**REFERENCES:**

Chapter 102 of the Ohio Revised Code (ORC)  
ORC 5513.06  
ORC 125.25  
ORC 5525.13

**SCOPE:**

This policy is applicable to all employees within the ODOT. Prime responsibility lies with personnel having the need to meet with vendors including, but not necessarily limited to employees with purchasing authority, contract administration, and stock related duties.

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To the extent permitted by law, this policy also applies to all private companies and their employees conducting business with or seeking to do business with the state of Ohio or with ODOT.

This policy is not intended to replace or modify any existing laws, executive orders or departmental policies relative to ethics. If any terms of this policy conflict, the existing laws, executive orders or departmental policies shall prevail.

### **BACKGROUND AND PURPOSE:**

Each fiscal year (July 1 to June 30) ODOT spends millions of dollars for supplies and services required for the daily operation of its operations and facilities. The processes associated with these purchasing efforts involve the expenditure of tax dollars that creates a trust between ODOT and the general public. All employees are responsible for becoming familiar with the purchasing statutes and rules, the ethics laws of the state of Ohio, any Executive Orders and departmental policies pertaining to ethical conduct.

Employees are required to perform their daily activities in a professional and responsible manner to maintain the public trust. Employees must avoid any “appearance or perception of impropriety.” Employees who violate the purchasing statutes or rules, ethics laws, Executive Order(s) or departmental policies will be subject to any penalties set forth by law, as well as, subject to disciplinary action up to and including termination of employment.

### **DEFINITIONS:**

Purchasing Authority – That power given to an ODOT employee to procure supplies or services.

Sales and Marketing Call – Any call from a vendor to an ODOT employee with a goal of securing a sale or purchase with ODOT.

Stock Related Duties –the procurement of commodities through a vendor that is not predefined in an existing DAS or ODOT contract.

Vendor – Any person(s) or entity or person(s) representing such entity currently doing or seeking to do business with ODOT.

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Visit – The physical appearance and interaction with an ODOT employee, of a person(s) representing a vendor, either on or off ODOT property during regular business hours.

**PROCEDURE:**

**A. ODOT Employee Responsibilities:**

1. An employee may not participate in or receive an unannounced visit from a vendor.
2. All vendor visits must be scheduled in advance and by appointment only.
3. All visits must be formally documented through the use of a sign-in/sign-out log. (See Appendix A)
4. Laminated notification signs must be posted at the entrances of all ODOT facilities notifying and instructing vendors of the above policy. (See Appendix B)
5. Vendors shall be escorted by an ODOT employee during their visit and throughout the facility.
6. Employees who violate this policy may be subject to discipline.
7. Cold calling is a method of marketing a service or product by calling prospective clients without an introduction, to determine if the potential client has a need for the caller's product. Cold calling may provide a legitimate source of information for ODOT. However, cold calls may become disrupting or inappropriate and therefore, should be brief, and terminated as soon as possible. ODOT employees should encourage the caller to forward any pertinent literature for consideration. ODOT employees are not expected to return or to accept repeated cold calls from a vendor.

In addition to the legal requirements for ethical conduct, employees shall comply with the following:

8. No employee shall solicit or accept anything of value for personal use, either directly or indirectly, from anyone who has or is seeking to do business with the State or with ODOT.
9. No employee shall use or authorize the use of their position of employment to secure anything of value for personal use, or promise or offer to provide

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anything of value from anyone who has or is seeking to do business with the State or with ODOT.

10. No employee shall outwardly display, in the workplace, any promotional items provided by a vendor who has or is seeking to do business with the State or with ODOT. Personal use of promotional items may be permissible if done in a discrete manner limiting, if possible, disclosure of the name, logo or other identifying trademark of the supplier.
11. Employees may participate in business lunches, dinners, trade events or conferences provided that such activities are not established to discuss a forthcoming procurement or bid or RFP that is under evaluation. Employees are expected to pay for their meals, registration, travel or lodging subject to reimbursement in accordance with state travel policies. Acceptance of door prizes or gifts is discouraged. However, if a door prize or gift of nominal value is accepted from a vendor that is doing business or seeking to do business with the State or with ODOT, it must be reported to the employee's immediate supervisor. If the value of the prize exceeds \$20.00, the employee must return the prize. Employees should use good judgment when participating in such activities.
12. All purchasing activities are of public interest and a matter of public record. Employees shall conduct their official duties so that all actions can be fully substantiated and legally defended. No employee shall disclose or use, without proper authorization, any information acquired in the course of performing their official duties for personal gain. Employees shall maintain complete and concise records on all purchasing activities subject to existing laws pertaining to public records.

## **B. Vendor responsibilities:**

All vendors who are actively doing business with or seeking to do business with the State and/or with ODOT are expected to perform their business activities in a professional manner and avoid any "perceptions of impropriety." Vendors will be responsible to review and become familiar with the ethics laws of the state of Ohio. Any vendor who violates Ohio's ethics laws or any executive order or ODOT policy will be subject to legal penalties up to and including debarment.

ODOT utilizes a variety of methods for establishing contracts for supplies and services which include: competitive sealed bidding, competitive sealed proposals, direct purchases, reverse auction, multiple award contracts and request for quotes. Processes for implementing these methods have been developed to ensure fair and equal treatment of all vendors participating in the purchasing activity. Any vendor that attempts to

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influence the evaluation and/or award of a contract either directly or through an outside agent or representative will be disqualified and will not be able to participate in the purchasing activity. In addition, a vendor who attempts to influence an evaluation or award will be subject to penalties set forth by law up to and including debarment from doing business with ODOT and/or the state of Ohio.

**C. Suspected violation of ethics laws:**

Suspected violations of ODOT purchasing statutes, rules, policies, or guidelines, or of Ohio's ethics laws, executive orders by any employee of the State or a vendor are to be reported to the Agency Procurement Officer(s) or APO. The APO will advise the Chief Legal Counsel who may take appropriate action. If necessary or appropriate, the matter may be referred to the Inspector General, the Ohio Attorney General and/or the Ohio Ethics Commission for resolution.

**TRAINING:**

Biannual ethics training is required for all ODOT employees. Purchasing training is required of all those involved in purchasing supplies and services for the department.

**FISCAL IMPACT:**

Minimize financial damages through fraud.



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Appendix B:

Entrance notification sign for Vendor visits:

**SOLICITATION POLICY ATTENTION:**

Solicitation by vendors is by appointment only.  
Vendors must sign in at the front desk, be escorted by an  
ODOT employee throughout the facility, and display the  
appropriate visitation badge. Vendors are required to sign  
out at departure.

Office of Contracts  
Brad Jones  
Deputy Director

To \_\_\_\_\_  
From Office of Contracts  
By Jim Schurch, Purchasing Coordinator  
Subject Recommendation for award of Bid Invitation \_\_\_\_\_  
Date: \_\_\_\_\_

Your recommendation for award of the attached Bid Invitation should be returned to the Office of Contracts, Purchasing Services section within one week of receipt to allow adequate time for us to award the invitation and process the purchase order. The following steps are provided to assist you in preparing the recommendation:

Please review the enclosed bidding documents and tabulation to determine the lowest responsive bidder who meets your material specifications; if the IFB included pre-award material testing language, you must obtain the test results before making your recommendation and submit the test results with your recommendation.

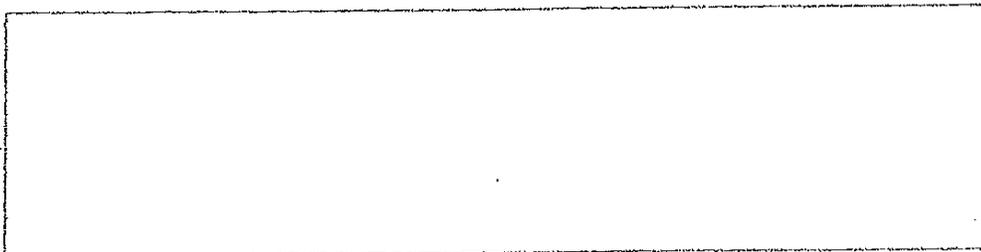
Prepare a typed recommendation to the Office of Contracts for award to the lowest responsive bidder who meets specification requirements. The recommendation needs to be signed by the appropriate reviewing authority.

NOTE: If your recommendation is for other than the low bidder, you must state what material specifications are not being met by the apparent low bidder.

Return the invitation package and your recommendation to Jim Schurch, Purchasing Coordinator, Office of Contracts, 1<sup>st</sup> floor.

You may contact Jim Schurch at (614)544-7876 if you have any questions.

For your information and consideration the following bid irregularities were discovered during our preliminary review of the bidding documents:



When applicable, please provide justification that a bidder's response to each specification item checked "no" meets or exceeds our specifications. Bids must meet or exceed specifications to be deemed responsive.

# Exhibit 2

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Name Jim Schuch

BIDS

Date Checked \_\_\_\_\_

Initial \_\_\_\_\_

Check bid for original signature.	
Check Buy Ohio to see if filled out.	
Check math-watch for unbalanced bids	
Determine "Buy Ohio" pricing.	
Check Terrorist Pages are completed	
Check for required price list.	
Check for specification sheets.	
Complete recommendation form that is submitted to the District.	

REQUIRED ITEMS		OPTIONAL ITEMS	
Description	Buyer-Initials	Description	Buyer-Initials
INVITATION #		W9	
Open Bid		Prevailing Wage	
MBE Bid		Drawings	
Mailing Date		Terms of Sale	
Opening Date		Steel Paragraph	
Addendum Issued		Concrete Pipe Statement	
Addendum Issued		Box Culvert Statement	
Addendum Issued		Spec. Book Statement	

INVITATION TRACKING DATES:

Description	Date Sent Out	Date Returned
Contract sent out for renewal		
Date invitation composed by buyer		
Office/District sent for final approval before printing		
Buyer gives to Mgmt., for final approval before sent to printing		
Sent to printing		
Final ITB Check after printing and prior to mailing		

TABULATION TRACKING DATES:

Description	Date Sent Out	Date Returned
Tabulation sent out for recommendation		
Location sent for recommendation		

Requisition Number:	
Purchase Order Number:	

Current Contract Expires:	
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# Exhibit 2

BUYER: Jim Schuech

INVITATION NUMBER	
REQUISITION NUMBER	
OFFICE OR DISTRICT REQUESTING INVITATION	
ESTIMATED CONTRACT VALUE	
ADDENDUM	
TOTAL VENDORS	

CHECK ONE: <input type="checkbox"/> OPEN BID <input type="checkbox"/> MINORITY <input type="checkbox"/> ADDENDUM
SUGGESTED BIDDERS ATTACHED: <input type="checkbox"/> YES <input type="checkbox"/> NO

NOTES/SUGGESTED VENDOR:

Invitation No. \_\_\_\_\_

**State of Ohio, Department of Transportation (ODOT)  
Office of Contract Sales, Purchasing Services**

**Terms and Conditions for Submitting Excel Pricing File in Bid Package**

(Last Revised 11/2016)

**1. DOWNLOADING THE EXCEL PRICING FILE:** Bidders can access and download the most current Excel Pricing File for this invitation to bid by following the hyperlink provided below:

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/PurchDocs/801Lpricing.xls>

**2. SUBMISSION OF EXCEL PRICING FILE:** Bidders should submit both a media device with the completed electronic Excel pricing file (.xls) and a hard copy print out of the completed Excel file in their submitted bid package. The media device should be marked with the bidder's name and the Invitation to Bid number.

"Media Device"- Compact Disc (CD), DVD (Digital Versatile Disc), or Flash Drive

Failure to submit this media device with a completed Excel price sheet from the Department's Microsoft Excel file and the hard copy print out of the completed Excel price sheet may result in a bid being deemed non-responsive by the Department.

**3. DISCREPANCIES IN SUBMITTED INFORMATION:** In the event there is a discrepancy between the information submitted on the media device and the hard copy Excel price sheet, the information submitted on the media device will take precedence.

**4. NON-FUNCTIONAL MEDIA DEVICE:** The Department shall not be held liable in the event a bidder's media device is not functional, is broken, or is unable to be accessed/downloaded by the Department for any reason. Bidders should take care to ensure all submitted media devices are properly protected during transport.

**5. UNAPPROVED ALTERATIONS TO EXCEL PRICING FILE:** Bidders who materially alter the original content of the Excel pricing file (e.g. specifications, formulas, etc.) issued by the Department may be found non-responsive and ineligible for award of this invitation to bid.

**6. CHANGES TO EXCEL PRICING FILE:** The Department will only make modifications to the Excel pricing file by written addendum only. Where changes are necessary to the Excel pricing page, the Department will issue a new Excel pricing page indicating the revisions made and a revision date for the changes.

It is the sole responsibility of the bidder to check for issued addenda prior to submitting a bid package to ensure the most updated Excel pricing file is being utilized.

**7. DESCRIPTIVE LITERATURE:** Bidders may electronically, on their submitted media device, provide any descriptive literature (e.g. brochures, spec/cut sheets, drawings, MSDS, etc.) regarding the products and/or services offered by the bidder. As this literature may be publically posted for viewing by purchasers, bidders must not submit any literature electronically in which they consider to be a trade secret, proprietary, or confidential in any way.

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Invitation No.

**State of Ohio, Department of Transportation (ODOT)  
Office of Contract Sales, Purchasing Services**

**INSTRUCTIONS, TERMS AND CONDITIONS FOR BIDDING**

(Last revised 11/2016)

1. **BIDDER REGISTRATION:** The Department requires awarded bidder(s) to successfully register as a State of Ohio Supplier with the Department of Ohio Shared Services and successfully obtain an OAKS vendor identification number (OAKS ID) within fourteen (14) calendar days from the date of contract award and execution. The Department cannot utilize awarded Contracts to purchase from a bidder who cannot obtain an OAKS ID from Ohio Shared Services. In the event an awarded bidder is unable to obtain an OAKS ID, the Department shall reserve the right to revoke its award to the bidder and immediately cancel any resulting Contract.

A Supplier Information Form and W-9 must be completed and sent back directly to Ohio Shared Services in order to register and apply for an OAKS ID. The following website can be accessed by bidders to obtain both the forms and specific instructions for obtaining an OAKS ID:

<http://ohiosharedservices.ohio.gov/SupplierOperations/Forms.aspx>

It is strongly recommended that all interested bidders not already registered with Ohio Shared Services submit the above paperwork prior to the bid submission deadline.

2. **HOW BIDS MUST BE PACKAGED:** All submitted bids in response to this Invitation to Bid (ITB) must be submitted in a sealed envelope or box (envelope means any type of sealed, opaque container) marked with the ITB number, the title of the ITB, bid submission deadline (bid opening date), and bidder (company) name clearly marked on the outside of the envelope/box. If a bidder is using an "Express Mail" or similar type of service, the bid response must be contained in a sealed envelope within the "Express" mailer (the bid number must be listed on the exterior of the sealed envelope contained within the "Express" mailer). A bid that is not properly and clearly marked and is inadvertently opened, before the scheduled bid opening time, may be disqualified, at the Department's discretion, without additional consideration for award of the contract.

Below is an example to illustrate how the outer surface of the bid package should be labeled:

**Invitation to Bid #: (insert bid number)**  
**Commodity/Service: (insert title of bid)**  
**Bid Submission Deadline: (insert due date)**  
**Company Name: (insert company name)**

3. **WHAT NEEDS INCLUDED IN BID PACKAGE:** Submitted bid packages should include, at a minimum, a completed Signature Page, a hard copy print out of this entire invitation to bid document, media device with a completed Excel pricing page, hard copy of the completed Excel pricing page, and all necessary supportive documentation, forms, and any other information required herein. The Department may deem a bid non-responsive for failure to submit any of the documents requested above.
4. **PREBID QUESTIONS, DISCREPANCIES, AND CLARIFICATIONS:** Any discrepancies, omissions, ambiguities, or conflicts in or among the bidding documents or doubts as to the meaning shall be brought to the Department's attention by the bidder no less than three (3) business days prior to the bid submission deadline. All questions, discrepancies, clarifications, etc. must be submitted electronically (hyperlink below). During the competitive bidding process, bidders (and their agents) are prohibited from contacting any ODOT office, including District offices, other than the Office of Contract Sales, Purchasing Services section to obtain responses to any questions. The Department may find a bidder non-responsive for failing to adhere to any of the above requirements.

**Pre-bid questions/inquiries must be submitted electronically through the following website:**  
<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Pages/PurchasePBQ.aspx>

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Answers to Pre-Bid Questions/Inquiries will be posted on the following document available for download at the following website:

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Purchase/PBQ-Answers.doc>

It is each bidder's sole responsibility to check the website for updates to pre-bid questions and answers before submitting its bid package to the Department.

5. **MODIFICATIONS TO THE BIDDING DOCUMENTS:** When it is deemed necessary to modify these bidding documents, the Department will only do so by written addendum. The issuance of an addendum is dependent upon the information received and the impact on the competitive bid process. All issued addenda will be posted to the Department's Upcoming ITB's website and shall be automatically incorporated into the bidding/contract documents:

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Lists/PurchaseUpcomingITBs/UplTBs.aspx>

In addition to posting on the above website, the Department also may email addenda information out to all known bidders for convenience purposes only. The Department shall not be held responsible for a bidder's failure to receive the email with the addenda information. It is the sole responsibility of all interested bidders to diligently visit the above-listed website to see if any addenda have been issued prior to submitting their bid to the Department. Those interested in obtaining addenda information via email for a particular invitation to bid must send the Department its request in writing to the following email address:

[Contracts.Purchasing@dot.ohio.gov](mailto:Contracts.Purchasing@dot.ohio.gov)

6. **PRE-BID CONFERENCES:** The Department reserves the right to hold mandatory or optional pre-bid conferences at its discretion. Conferences may be held either in-person or via webinar/phone conference formats. Bidders will be required to sign-in at all pre-bid conferences. The sign-in sheet for all pre-bid conferences is considered a public record, will be kept in the bid file, and will be shared with any requesting party. Additionally, any business cards collected during any pre-bid conference shall be considered public records and may be distributed out to all conference attendees. Any changes to the requirements or specifications of an invitation to bid, as a result of the pre-bid conference content, will be made by written addendum and publicly posted.

For mandatory pre-bid conferences, the Department requires that those companies intending on submitting a bid be in attendance for the entire duration of the pre-bid conference. Mandatory pre-bid conferences will officially begin five (5) minutes after the scheduled date and start time at the location specified in the Special Terms and Conditions. Those bidders not in attendance at that time will be considered ineligible to submit a bid. The conference will be considered adjourned and complete when a representative of the Office of Contract Sales, Purchasing Services section indicates so. To be considered in attendance and eligible to bid, a bidder must have at least one representative of the company in attendance. A single representative cannot be present on behalf of two or more companies (bidders). Each company (bidder) must send its own representative on behalf of their organization. It is the sole responsibility of the bidder to ensure that the representative follows the sign-in procedures to properly document the bidder's attendance. The Department shall not be held responsible for a bidder's failure to arrive at the meeting on time, properly sign-in, or failure to stay for the entire duration of the meeting.

7. **WHERE BIDS MUST BE DELIVERED TO:** The Department only accepts hand delivered and mailed bid packages. Bids submitted via email, telephone, electronic facsimile (fax), or any other mode of electronic transmission will not be considered a responsive bid submission. Bids must be in possession of the ODOT Office of Contract Sales, Purchasing Services section, on or prior to 2:00 p.m. eastern time, on the scheduled date of the bid submission deadline (public bid opening) as listed on the cover of this Invitation to Bid (ITB). Properly labeled bid packages must be either hand delivered by the bidder to the Office of Contract Sales, Purchasing Services section or mailed to the following EXACT address:

## Invitation No.

Ohio Department of Transportation,  
Office of Contract Sales, Purchasing Services, 1<sup>st</sup> floor  
1980 West Broad St. Mail Stop 4110  
Columbus, OH 43223  
(614) 644-7870 or (614) 752-9017  
Main Office Line: 1-800-459-3778

OFFICE HOURS: 7:30-3:30, M-F (excluding State of Ohio recognized holidays)

For hand delivery of bids, the Office of Contract Sales, Purchasing Services section is located on the 1<sup>st</sup> floor of ODOT Central Office (same address as where bids will be received). Bidders will be required to sign-in at the front desk of the building and then must be escorted back to the Office of Contract Sales, Purchasing Services section in order to drop off their bid. It is the responsibility of the bidder to ensure enough time is allotted to allow for all sign in and security procedures prior to the 2:00 p.m. bid submission deadline. Delivery of bids to any other location (including the ODOT mailroom), does not constitute receipt by the Purchasing Services section. Bids delivered to the ODOT mail room by a courier service must be delivered so as to leave a reasonable amount of time for the transfer of the bid to the Purchasing Services section. The ODOT mail room delivers received mail to Purchasing Services at scheduled times during normal office hours.

8. **LATE BIDS:** A bid received after 2:00 p.m. eastern time, on the bid submission deadline (bid opening date) established, shall be deemed "Late" and will not be considered for award of this invitation to bid. The late bid package will be marked as late, remain sealed, and will be kept in the Department's bid file to serve as official record of a late bid having been received.

Note: The Office of Contract Sales, Purchasing Services timeclock takes precedence over any other timekeeping device (e.g. cell phones, other ODOT clocks, wrist watches, etc.) and will be utilized by the Department to determine whether or not a bid was received by the 2:00 p.m. deadline.

9. **PUBLIC BID OPENING PROCEDURE:** All bids in possession of the Purchasing Services section shall be publicly opened, at ODOT Central Office, Office of Contract Sales, Purchasing Services section, 1<sup>st</sup> floor, starting at 2:01 p.m. on the scheduled date of public bid opening (bid submission deadline). All bids will be opened and read to any interested parties in attendance. At the conclusion of the public bid opening, bids may no longer be shared with interested parties until after a contract award has been made.
10. **BIDS FIRM:** Once publicly opened, all bids are firm and cannot be altered by the bidder. Once a Contract is awarded and executed, the Vendor shall deliver all products and/or services at the bid prices and terms contained in the Contract. All submitted bids shall remain valid for a period of sixty (60) calendar days after the date of the public bid opening. Beyond sixty (60) calendar days, bidders will have the option to either honor their submitted bid or make a written request to withdraw their bid from consideration. The Ohio Department of Transportation shall receive the benefit of any decrease in price during the sixty (60) day period.
11. **WITHDRAWAL OF BIDS:** A bidder may, by way of written notice to the Purchasing Services section, request to withdraw their bid response prior to the bid submission deadline. The request must be received by the Purchasing Services section PRIOR to the start of the public bid opening (beginning at 2:01 p.m.) on the date of the bid submission deadline. Such written notice must set forth the specific reasons for the bid withdrawal.

For requests to withdrawal a bid after the public bid opening has begun, the bidder may request to withdraw their bid response from consideration if the unit bid price(s) submitted are unreasonably lower than the other bids received, provided the bid was submitted in good faith, and the reason for the unit bid price(s) being substantially lower was due to an unintentional and substantial arithmetical error or unintentional omission of a substantial quantity of material or labor in the compilation of the bid. Written notice of any such request to withdraw after the bid opening must be received by the Purchasing Services section within no later than forty-eight (48) hours of the scheduled public bid opening.

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The decision to allow a bid to be withdrawn is at the sole discretion of the Purchasing Services section. If the bid is to be awarded by category, lot, or group the withdrawal request will apply to all items within the category, lot, or group. All documents and conversations relating to any withdrawal request will become a part of the permanent bid file.

12. **MODIFICATION OF SUBMITTED BIDS PRIOR TO PUBLIC BID OPENING:** A bidder may request to modify their bid response prior to the scheduled date and time set for the public bid opening (i.e. bid submission deadline). To modify a bid response, the bidder must provide an alternate, complete bid package containing all required forms and necessary documents. The alternate bid package must be marked somewhere on the outer packaging as "REVISED". Purchasing Services will not return the original bid package to the bidder. The original bid package will be kept in the contract file.

In order to protect the integrity of the bidding process, bids shall not be prepared on the premises of ODOT. Any bid which is prepared on the premises of ODOT may be immediately disqualified and receive no further consideration for award.

13. **UNIT BID PRICES:** The unit bid price(s) submitted shall govern the award of this invitation to bid unless otherwise specified in the bid evaluation criteria. The unit bid price should be entered for each required bid item on the Department's pricing page. Use of ditto marks, arrows, or other markings in lieu of the actual unit price may result in a non-responsive bid determination. Lot or group prices listed in the unit bid price area shall be considered as the unit price unless clearly identified as the lot price. Unless specifically allowed in the contract's terms and conditions, requests to change or alter unit bid prices after the public bid opening are prohibited.

The following requirements also apply to unit bid prices:

a. **DECIMAL POINT:** Bidders should not insert a unit cost of more than two (2) digits to the right of the decimal point. Digit(s) beyond two (2) will be dropped and not recognized by the Department for the purposes of bid evaluation or contract award.

b. **CREDIT CARD FEES:** Bidders must incorporate into their unit bid price(s) submitted all costs and fees associated with the State's use of a payment (credit) card.

c. **DISCOUNTS:** While bidders may offer to the Department discounts for prompt payment and other similar incentives, discounts and incentives these will not be used to alter the submitted unit bid price(s) for purposes of bid evaluation and contract award. This section only applies to bids awarded to the lowest responsive and responsible bidder either by individual bid item or group of bid items and does not include bids which are awarded to all responsive and responsible bidders (i.e. Multiple Award Contracts).

d. **MULTIPLE AWARD CONTRACTS:** Pursuant to Ohio Revised Code 5513.02, the Department may award Contracts to all responsive and responsible bidders for articles (i.e. bid items) meeting the general specifications provided. These are referenced by the Department as 'Multiple Award Contracts'. Unit bid prices submitted for Multiple Award Contracts shall be considered by the Department as an amount-not-to-exceed unit bid price for the entire duration of the Contract. These awarded, amount-not-to-exceed bid prices often do not reflect potential quantity discounts, freight discounts, nor other similar discounts/incentives offered periodically by a distributor, manufacturer, or supplier. Where like or similar bid items are being offered by two or more awarded Vendors (bidders) on the awarded Contract, the Department reserves the right to obtain quotes from all awarded bidders on the Contract in order to achieve the best and most up-to-date pricing available to the Department at the time of ordering.

e. **UNBALANCED BIDS:** The Department will not accept unit bid prices that are deemed to be either materially or mathematically unbalanced. The final determination of an unbalanced unit bid price shall be at the Department's sole discretion.

## Invitation No.

f. **TIE BID PROCESS:** If two or more responsive bids offer the same unit bid price, ODOT may break the tie as follows: during the bid evaluation process, the bidders that submitted tie bids will be contacted and given up to three (3) business days to submit a written revised unit price for the affected item or items. Bidders are not required to submit a revised unit price. In the event a tie exists after the above-prescribed deadline has passed, ODOT will schedule a coin flip to be conducted in the presence of both bidders. The winner of the coin flip will be deemed awarded the affected bid item(s).

14. **PREFERENCE FOR OHIO/BORDER STATE PRODUCTS:** The bid award for this invitation to bid may be subject to the domestic preference provisions of the Buy America Act, 41 U.S.C.A., 10a-10d, as amended, and to the preference for Ohio products under O.R.C. Sections 125.09 and 125.11 and Ohio Administrative Code Rule 123:5-1-06. A bidder must complete the enclosed *Buy Ohio/Buy America Certification Statement* form to be eligible to receive any applicable bid preferences.
15. **RESPONSIVE BIDDER:** A bidder is responsive if its bid responds to the bid specifications in all material respects and contains no irregularities or deviations from the specifications that would affect the amount of the bid or otherwise give the bidder an unfair competitive advantage.
16. **MINOR INFORMALITIES OR IRREGULARITIES IN BIDS:** A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the invitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the supplies or services being acquired. The Department either shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive the deficiency, whichever is to the advantage of the Department.
17. **BIDDER RESPONSIBILITY:** The Department will only award this invitation to bid to what it deems to be a responsible bidder. The Department's determination of a bidder's responsibility includes, but is not limited to, the following factors:
  - a) experience of the bidder;
  - b) bidder's financial condition;
  - c) bidder's conduct and performance on previous contracts;
  - d) the bidder's facilities;
  - e) the bidder's management skills;
  - f) the bidder's employees;
  - g) past experience and/or quality of bidder's proposed subcontractors;
  - h) the bidder's ability to execute the contract;
  - i) review of Federal and Department debarment lists;
  - j) bidder has history of successful performance on contracts of similar size and scope; and
  - k) current or impending legal actions against a bidder.
18. **APPARENT CLERICAL MISTAKES:** Clerical mistakes apparent on the face of the bid may be corrected, at the Department's discretion, before contract award. The Department first shall obtain from the bidder a verification of the information intended and will attach written verification of the mistake by the bidder in the contract file and award documents. Example of apparent clerical mistakes are:
  - (1) Obvious misplacement of a decimal point or comma;
  - (2) Obvious incorrect discount factor; or
  - (3) Transcription error in Part Number.
19. **ADDITIONAL INFORMATION:** The Department reserves the right to request additional information to evaluate a bidder's responsiveness to the Invitation to Bid's requirements and/or to evaluate a bidder's overall responsibility. These requests may require the bidder's submission of confidential materials (e.g. financial statements). If a bidder does not provide all of the requested information within the prescribed timeframe, the Department may find the bid non-responsive and ineligible for award.

## Invitation No.

20. **PRODUCT SAMPLES:** The Department may require bidders, by Invitation to Bid or by request during bid evaluation, to provide sample supplies or equipment or examples of work, at the Bidder's expense. Samples must clearly identify the Bidder, the bid number, and the item the sample represents in the bid. The Department will return samples that are not destroyed by testing, at the Bidder's expense, upon the Bidder's timely request. The Department may keep the samples of the Bidder awarded the contract until the completion of the contract. Unsolicited samples submitted in response to this Invitation to Bid will not be evaluated and the Department may dispose of them in any way it chooses.

21. **SPECIFICATIONS:** The Department is authorized by Sections 5513 and/or 125.02(B) of the Ohio Revised Code to prepare specifications and establish contracts to obtain the supplies, equipment, and/or services referenced within this invitation to bid. The purpose of the provided specifications is to describe the supplies, equipment, and/or services to be purchased and will serve as a fair and equitable basis for comparison of submitted bids. The Department may use any form of specification it determines to be in the best interest of the Department and that best describes the supplies or services to be purchased. Specifications may be in the form of a design specification or a combination thereof. If the department determines that a design, performance or a combination specification is not in the best interest of the Department, it may use brand name or equal specifications.

Unless otherwise specified in this Invitation to Bid, all products, equipment, supplies, etc. offered by bidders must be in a new condition. A 'new' product is one that will be first used by the Department after it has been manufactured or produced. Used, reconditioned, or previously titled products, supplies, or equipment will not be considered for award of this Invitation to Bid.

The Department uses qualified products list (QPL) and/or approved products lists (APL) developed by either itself or other qualified institutions to specify acceptable products and supplies that have been through proper application and testing procedures to verify conformance with technical and/or performance specifications. Where the Department requires products and supplies to be included on a specific QPL/APL listing, the Department will not accept bids for products/supplies that are not included on a specified QPL/APL at the time of public bid opening.

A bidder may not be compensated for damages arising from inaccurate or incomplete information in the Invitation to Bid specifications or from inaccurate assumptions based upon the specifications.

22. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make, or manufacturer does not restrict bidders to the specific brand, make, or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the Department, in its sole discretion, determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, or suitability for the purpose intended, may be accepted. The bidder is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Department to determine if the product offered meets the requirements of the solicitation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the bidder clearly indicates in its bid that the product being offered is an equivalent product, such bid will be considered to offer the exact brand, make, or manufacturer name referenced in the bid solicitation.

23. **DEVIATIONS:** Statements or modifications made by a bidder in their submitted bid package that deviate from this Invitation to Bid's terms, conditions, specifications and requirements may render a bid non-responsive and ineligible for award.

Acceptance of any deviations or modifications will be confirmed by the Department in writing, if accepted. If the Department does not specifically approve submitted deviations or modifications in writing, an award of this invitation to bid shall not constitute acceptance of the bidder's submitted modifications.

24. **ESTIMATED QUANTITIES:** Any purchase estimates indicated for bid item(s) are to be considered as estimates only. The Department makes no representation or guarantee as to the actual amount of item(s) to be purchased by the Department or Political Subdivisions.

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25. **OVERLAPPING CONTRACT ITEMS:** The products and/or services included in this solicitation may be available from other State of Ohio contracts and/or other contracts made available for the Department's use. The existence of these contracts containing like or similar products and/or services could be either known or unknown to the Department at the time this Invitation to bid has been published. Unless otherwise stated in this contract, the Department may acquire these products and/or services from any available source. The Department will make purchases from sources that are deemed to be in the best interest of the Agency.
26. **REJECTION/PARTIAL AWARD OF BIDS:** The Department reserves the right to reject any or all bid responses, award partial contracts, or choose to rebid when:
- (1) Product, supplies and/or services are not in compliance with the requirements, specifications, and terms and conditions set forth in this Invitation to Bid; or
  - (2) Pricing offered is determined to be excessive in comparison with existing market conditions, or exceeds the available funds of the Department; or
  - (3) Only one bid is received and the Department cannot determine the reasonableness of the bid prices submitted; or
  - (4) It is determined that the award of any or all items would not be in the best interest of the Department; or
  - (5) The Department, in its opinion, did not achieve the desired amount of competition amongst qualified bidders for the products, supplies, and/or services being offered in the bid solicitation; or
  - (6) Inadequate or ambiguous specifications were cited in the bidding documents; or
  - (7) The Department determines that specifications and/or requirements were missing from the bidding documents; or
  - (8) A bidder imposes additional terms and conditions against the Department.
27. **NOTICE TO BIDDERS OF REJECTED BIDS:** When the Department deems it necessary to reject a bid, the Department will notify each affected bidder and the reasons for such actions.
28. **BID PROTESTS:** Any bidder either deemed not responsible or whose bid has been deemed non-responsive shall be notified by the Department of that determination and the reasons for it. The notification will be provided by the Department in writing and sent by certified U.S. mail and at the email address provided on the front cover of this bid. The bidder will have five (5) calendar days after receipt (by mail or email confirmation) of this notification to file a written, valid protest of the Department's determination. A valid written protest must contain substantive information and evidence so as to refute the Department's asserted claims against either the bid's responsiveness or bidder's responsibility, whichever apply. The Department will only review and respond to valid written protests containing substantive information and evidence. After review of the valid written protest, the Department will either affirm or reverse its original determination.
- If a valid written protest is not received by the Department within five (5) calendar days of receipt, the Director of ODOT will move forward awarding the Contract and the affected bidder will have effectively waived its right to protest the Department's decision. For the purposes of this paragraph, "receipt" shall be defined as verification (via either certified mail return receipt or electronic read or delivery receipt) that the apparent low bidder has received the Department's written determination against the affected bidder. Upon the bidder's receipt, the five (5) calendar day response deadline shall commence.
29. **DELAYS IN CONTRACT AWARD:** Delays in the award of this Invitation to Bid beyond the anticipated Contract start date may result in a change in the contract period as indicated in the Special terms and conditions of this bid solicitation. In these instances ODOT shall reserve the right to award a contract covering a period equal to or less than the initial contract term than originally specified in this bid solicitation.

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30. **CONTRACT AWARD AND FORMATION:** Successful bidder(s) will receive via U.S. regular mail and/or email a Notice of Contract Award letter as well as a photocopy version of the Signature Page executed by both Parties. These documents shall serve to form the Contract between the Parties. The Signature Page must be executed by both the bidder and the Director of ODOT for the Contract to be deemed valid and enforceable. The Department will maintain in the Contract file the Signature Page document containing each parties' original signature(s).

Upon award of an Invitation to Bid, the bid invitation number (e.g. Invitation No. 999-16) will subsequently become the number assigned to the resulting Contract (e.g. ODOT Contract number 999-16) and will be referenced by the Department in all matters and documents related to said Contract.

Upon award of an invitation to bid, successful bidders will thereafter be referenced as "Vendor" or "Contractor" by the Department in all matters and documents related to the resulting Contract.

31. **PUBLIC POSTING OF AWARDED CONTRACTS:** All Contracts awarded by the Office of Contract Sales, Purchasing Services section are posted to the Department's website. Successful bidders and awarded Contract pricing can be found by viewing the Contract's award tab (Excel file). Award tabs can be accessed via the following website:

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Lists/PurchaseCurrentContracts/CurrentKs.aspx>

32. **PUBLIC RECORD:** All opened bids and their contents are subject to the Public Records Law, Section 149.43 of the Ohio Revised Code. Copies of bid responses must be requested and will be provided within a reasonable period of time and at a fee established by the Director of ODOT. To expedite and properly respond to such public records requests, a written request must be submitted to the Department. To prevent delays in evaluating bids and awarding contracts, such requests for recently opened bids, will be honored after a Contract has been executed.

Bidders may request that specific information, such as trade secrets or proprietary data, be designated as confidential and not considered as public record. Material so designated shall accompany the bid and be in a sealed container duly marked, and shall be readily separable from the bid in order to facilitate public inspection of non-confidential portion. Prices, makes, models, catalog numbers of items offered, deliveries and terms of payment cannot be considered as confidential. The decision as to whether or not such trade secrets or proprietary data shall be disclosed at the bid opening rests solely with the Department.

Requests to view previously submitted bids must be submitted in writing to either of the following addresses:

[Contracts.Purchasing@dot.ohio.gov](mailto:Contracts.Purchasing@dot.ohio.gov)  
Ohio Department of Transportation  
Office of Contract Sales, Purchasing Services  
1980 West Broad St. Mail Stop 4110  
Columbus, OH 43223

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